IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

:O R D E R :

S.B. Civil Writ Petition No.3860/2004.
(Gujarat Sidhee Cement Ltd. Vs. State of Rajasthan & Another)

07.08.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Dinesh Mehta for the petitioner.
Mr. Anil Bhansali for respondent(s).

BY THE COURT :

Heard learned counsel for the petitioner.

By way of filing the present writ petition, the petitioner is challenging demand notices dated 24.05.2007, Annex.-7 and 17.09.2003, Annex.-9 as well as communication dated 09.08.2004, Annex.-11 whereby the respondent department raised demand for depositing Rs.24,73,052/- against the petitioner.

It is contended by learned counsel for the petitioner that earlier provisional assessment order was made by the department and the same was challenged before the Tax

Tribunal. It is submitted that during the pendency of the appeal against the provisional assessment order, the department issued notice for final assessment against the petitioner. In the meanwhile, the appeal filed against the provisional assessment order was withdrawn and, thereafter, the petitioner preferred original application against the notice for final assessment. Later on the original application, in which stay order had been granted, was transferred from the Tribunal to the High Court and it was registered as writ petition, being S.B. Civil Writ Petition No.3503/1999. It is submitted by learned counsel for the petitioner that the stay is operative in the said writ petition. By way of filing reply to the notice Annex.-10, it was brought to the notice of the department that there is stay granted by the High Court in favour of the petitioner against the notice for final assessment and the said writ petition is pending. But, the respondent again issued notice Annex.-11.

In the present writ petition, the petitioner is challenging the said three demand notices. In view of the above facts and circumstances, it is obvious that once the demand is under challenge before this Court and stay order is operative against the demand notice, therefore, the department is required to wait for final adjudication of the matter in the said writ petition.

Accordingly, it is made clear that till the decision of the said writ petition, the department is not required to proceed with the final assessment proceedings.

With aforesaid observation, the writ petition is disposed of.

(Gopal Krishan Vyas) J.